

REMARKS

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect Group I (claims 1-12, 19-21, 23 and 24) in response to the preliminary restriction requirement set forth in the Office Action.

II. Intended Use

With regard to the intended use argument, "wherein" clauses that recite features that are used to functionally define a particular capability or purpose that is served by the recited element are permitted under M.P.E.P. § 2173.05(g). Further, a functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. *See id.*

In this case, the detergent feed unit dissolves the detergent if the detergent is powdered and does not dissolve the detergent if the detergent is liquid. As such, the purpose of the recited element as set forth in claim 1, namely, feeding and dissolving the detergent, is functionally defined by the recitation that the dissolution of the detergent occurs only upon a determination that the detergent is powered. Thus, the claimed feature of dissolving the detergent if the detergent is a powdered detergent is an essential feature of the present invention.

III. Applicants Traverse the Requirement

Insofar as Group II is concerned, it is believed that claims 13-18 and 22 are so closely related to elected claims 1-12, 19-21, 23 and 24 that they should remain in the same application. The elected claims 1-12, 19-21, 23 and 24 are directed to a drum washing machine in which the detergent feed unit dissolves the detergent before feeding the detergent into the rotary tub in response to the detergent being a powdered detergent, and claims 13-18 and 22 are drawn to a method of controlling a drum washing machine including dissolving a powdered detergent before feeding the dissolved detergent into the rotary tub from the water tub through the detergent feed pipe in response to the detergent contained in the water tub being the powdered detergent.

There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and product claims in the same field of technology. While it is noted that the Examiner has identified different classifications for the product and method claims, it is believed that classification is not conclusive on the question of restriction. It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with

the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Group II claims by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is not required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is not required.

Specifically, the determination as to whether the detergent is powdered or liquid is an essential feature of both Groups of claims. The inventions in this case are not independent and there will be no serious burden on the Examiner if restriction is not required.

III. Conclusion

Upon review of references involved in this field of technology, when considering that the method recited by the Group II claims is directed to a method including dissolving a powdered detergent before feeding the dissolved detergent in response to the detergent contained in the water tub being powdered detergent, and elected claims 1-12, 19-21, 23 and 24 are directed to a drum washing machine including a detergent feed unit that dissolves detergent before feed the detergent into a rotary tub in response to the detergent being a powdered detergent, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

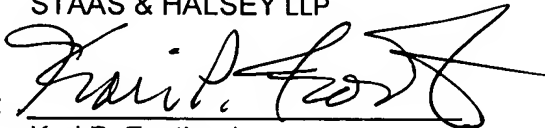
If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

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